IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15845 of 2004

Between:

B. Padmasree W/o B. Sreenivasulu
Pullalarevu Rapthadu Mandal, Anantapur District

..... PETITIONER

AND

1 Revenue Divisional Officer, Anantapur
2 Mandal Revenue Officer, Raptahdu Mandal Anantapur District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of mandamus or any other appropriate Writ or direction declaring the order of the 1st respondent passed in Rc. No. D1./CS/842/2004 28-8-20004 as illegal arbitrary and consequently direct the respondent to distribute the essential commodities to the card holders.

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following Order:

The petitioner is the authorised dealer of the Fair Price Shop of Pullalarevu Village, Rapthadu Mandal, Anantapur Mandlal.

This writ petition is filed seeking a declaration that the order of the first respondent-Revenue Divisional Officer, Anantapur dated 28-08-2004, where under the authorisation of the petitioner was suspended, pending enquiry, is arbitrary and illegal.

Heard both sides and perused the material on record.

The learned counsel for the petitioner contends that all the allegations made against the petitioner are false and without any basis and at any rate, the allegations being trivial in nature, the suspension of the authorisation, pending enquiry, is not warranted.

On a perusal of the impugned order dated 28-08-2004, it appears that the only allegation against the petitioner is that she is not residing in the village and that the shop is being run by one Venkataramanappa and Gopal. The law is well settled that the suspension pending enquiry cannot be made as a matter of course and that the licensing authority is bound to exercise the discretion reasonably and bona fide considering the facts and circumstances of the case. In all cases, where it is

possible to give an opportunity to the licencee, the licensing authority should not resort to the drastic step of suspension as an invariable rule. In the case on hand, since there is no allegation of diversion of stocks to black-market or any other grave allegation of misappropriation,

I find force in the contention of the learned counsel for the petitioner that the suspension of authorization pending enquiry is not warranted. Instead, the first respondent ought to have issued a notice and conducted an enquiry into the allegations.

In the circumstances, the writ petition is disposed of granting liberty to the petitioner to submit her explanation to the show-cause notice dated 28-08-2004, within a period of two weeks from today, in which event, the first respondent shall consider the same and after conducting necessary enquiry, pass appropriate orders in accordance with law, within a period of two weeks thereafter. Till such time, the impugned order of suspension shall not be given effect to. No costs.

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25-10-2004

kdl

To

1 The Revenue Divisional Officer, Anantapur
2 The Mandal Revenue Officer, Raptahdu Mandal Anantapur District.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.